

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

MARK CARTER,

Petitioner,

Case Number: 2:17-CV-11787  
HON. GEORGE CARAM STEEH

v.

RANDALL HAAS,

Respondent.

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ORDER GRANTING PETITIONER'S MOTION TO  
MODIFY TERMS OF ABEYANCE ORDER (DOC. 12)

Michigan state prisoner Mark Carter filed a petition for a writ of habeas corpus on June 5, 2017. (Doc. 1). That same day, Carter filed a motion to stay the petition. (Doc. 2). The Court granted Carter's motion, stayed the petition, held further proceedings in abeyance, and imposed time restrictions within which Carter was required to proceed. (Doc. 4 at Pg. ID 136).

Carter later moved to modify the terms of the abeyance order. (Doc. 5). The Court granted the motion and modified the terms of the abeyance order by requiring Carter to exhaust state court remedies within ninety days

from the Court's order and file a motion to lift stay and an amended petition within sixty days after conclusion of the state court proceedings. (Doc. 8).

Carter has filed a second motion to modify terms of abeyance order. On June 5, 2019, the Michigan Supreme Court remanded Carter's direct appeal from his re-sentencing under *People v. Lockridge*, 498 Mich. 358 (2015), to the Michigan Court of Appeals. *People v. Carter*, No. 158770 (Mich. June 5, 2019). The matter has been reopened by the Michigan Court of Appeals, but no decision has been issued. See *People v. Carter*, No. 345504.

Carter is unable to file a motion for relief from judgment in the trial court until his direct appeal concludes. The Court will modify the terms of the stay order to allow Carter ninety days to initiate exhaustion of state court remedies following the conclusion of his direct appeal. Carter is not required to *complete* exhaustion of state court remedies within that time because he does not control when the state court will rule upon his claims. Instead, he is required only to *initiate* exhaustion by the filing of a motion for relief from judgment in the trial court within ninety days. The Court further requires Carter to file a motion to lift the stay and an amended

petition within sixty days after the complete exhaustion of state court remedies.

IT IS SO ORDERED.

Dated: August 2, 2019

s/George Caram Steeh  
GEORGE CARAM STEEH  
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on August 2, 2019, by electronic and/or ordinary mail and also on Mark Carter #215595, Alger Maximum Correctional Facility, N6141 Industrial Park Drive, Munising, MI 49862.

s/Barbara Radke  
Deputy Clerk